

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 22062 of 2006(B)

PETITIONER:

**P.RADHA, EACHARATH VEEDU,
PURANATTUKARA, THRISSUR.**

BY ADV. SRI.C.E.UNNIKRISHNAN

RESPONDENTS:

**1. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.**

**2. THE JOINT REGISTRAR (GENERAL) OF
CO-OPERATIVE SOCIETIES,
THRISSUR.**

**3. SECRETARY,
KERALA CO-OPERATIVE EMPLOYEES PENSION BOARD,
P.B.NO.85, THIRUVANANTHAPURAM-1.**

**4. ADAT FARMERS CO-OPERATIVE BANK LTD.
NO.R-689, PURANATTUKARA,
REP. BY ITS MANAGING DIRECTOR.**

**R1 & R2 BY GOVERNMENT PLEADER (SMT. ANU SIVARAMAN)
R4 BY ADV. SRI.T.R.HARIKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX IN W.P.(C). NO. 22062 OF 2006

PETITIONER'S EXHIBITS:

- EXT.P1 TRUE COPY OF THE RESOLUTION NO. 32 DATED 6.3.1998.**
- EXT.P2 TRUE COPY OF THE RESOLUTION DATED 22.8.2003.**
- EXT.P3 TRUE COPY OF THE PROCEEDINGS NO.CRP.1370/04 DATED
18.5.2004 OF THE 2ND RESPONDENT.**
- EXT.P4 TRUE COPY OF THE ORDER NO.EM(3) 44628/04/K.DIS. DATED
6.11.2004 OF THE FIRST RESPONDENT.**
- EXT.P5 TRUE COPY OF THE LETTER DATED 3.1.2006 SUBMITTED BY THE
PETITIONER BEFORE THE FOURTH RESPONDENT.**
- EXT.P6 TRUE COPY OF THE REPLY DATED 11.6.2006 ISSUED BY THE
FOURTH RESPONDENT TO THE PETITIONER.**
- EXT.P7 TRUE COPY OF THE JUDGMENT DATED 23.11.2005 IN W.P.(C).
NO.29679/04 G OF THIS HONOURABLE COURT.**
- EXT.P8 TRUE COPY OF THE DEMAND NOTICE DATED 16.5.2006 ISSUED BY
THE THIRD RESPONDENT.**
- EXT.P9(A) & (B): TRUE COPIES OF THE PAY-IN-SLIPS DATED 6.6.2006 AND
7.6.2006.**

// TRUE COPY//

PS TO JUDGE

K. M. JOSEPH, J.

W.P.C. NO. 22062 OF 2006 B

Dated this the 10th August, 2007

JUDGMENT

The Writ Petition is filed seeking the following reliefs:

"(i) Issue a writ in the nature of mandamus or other appropriate writ, order or direction, directing the 1st respondent to grant exemption as provided Rule 185(8) from acquiring the academic qualification in respect of the petitioner from 1.7.1997.

(ii) Declare that the petitioner is entitled to get salary of Branch Manager from 1.7.1997.

(iii) Declare that the petitioner is entitled to get exemption from acquiring academic qualification as provided under Rule 185(8) from 1.7.1997.

(iv) Declare that the petitioner is entitled to receive pension as per the scheme, 1994.

(v) Issue a writ in the nature of mandamus or appropriate writ, order or direction commanding the fourth respondent to complete all the formalities for granting pension to the petitioner and also to re-imburse the amount of Rs.43,248/= with interest immediately.

(vi) Issue a writ in the nature of mandamus or any other appropriate writ, order or direction

commanding the third respondent to grant pension immediately on receiving the necessary documents from the fourth respondent.

(vii) Issue a writ in the nature of mandamus or any other appropriate writ, order or direction directing the fourth respondent to revise the salary of the petitioner from 1.4.2004 to 30.9.2004 and disburse the arrears."

2. I heard the learned counsel appearing for the petitioner and also the learned standing counsel appearing for the respondent Bank besides the learned Government Pleader. Case of the petitioner, in brief, is as follows:

Petitioner was not in possession of Graduation. But, the respondent Bank decided to grant exemption by resolution dated 27.11.1999. Approval was granted by order dated 1.12.2003. According to petitioner, she is entitled to get sanction from the date of the resolution and not from the date of grant of exemption. In this regard, she relies on a Judgment of this Court in Dasan v. Registrar of Co-operative Societies (2007 (1) KLT 581) and also Ext.P7. Even though I am not inclined to agree with the proposition as stated in the Judgment in Dasan v.

Registrar of Co-operative Societies (2007 (1) KLT 581), in the facts of this case, it may not be necessary to refer the matter. This is as it is pointed out by counsel for petitioner that it is not the position at law that the Registrar has no power to reject the resolution. Counsel contends that the observation came to be made in the context of the fact that the resolution of the Society was approved by the Registrar. I find that another learned Single Judge in Ext.P7 Judgment has also taken the view that exemption will take effect from the date of resolution. In this case, though the petitioner was promoted in the year 1997, the resolution was carried on 27.11.1999. In such circumstances, in view of the position, the petitioner is entitled to exemption from the date of the resolution dated 27.11.1999, it is declared that the petitioner is entitled to the benefit of exemption from the qualification in question from 27.11.1999. In such circumstances, petitioner will become entitled to the benefits based on the promotion as Branch Manager only from the date of the resolution dated 27.11.1999 and it is further directed that

the benefit due to the petitioner will be worked out on the basis of the above declaration. Learned counsel for the third respondent would submit that pension was worked out on the basis that the petitioner is entitled to exemption only from the date of the order and if exemption is to be granted from the date of the resolution, pensionary benefits will have to be worked out on that basis. The third respondent will work out the benefits due to the petitioner in terms of the declaration. Petitioner has a further case that she has remitted a sum of Rs.43,248/= towards pension contribution which should have been paid by the Society. Petitioner has produced Ext.P9 series also. It is for the petitioner to approach the Society and work out her remedies in the appropriate Forum in this regard.

The Writ Petition is disposed of as above.

K. M. JOSEPH, JUDGE

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